

DEPARTMENT OF FOOD AND AGRICULTURE

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing is scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

Subject Matter of Proposed Regulations: Procedures for selecting the conditions required to be reported and the method of preparation and publication of the "List of Reportable Conditions for Animals and Animal Products".

Sections Affected: Adopt Section 797

Specific Purpose of Each Adoption, Amendment, or Repeal

Assembly Bill 955 (Stats. 2001, Chapter 503) amended section 9101 of the Food and Agricultural Code. This section requires the Department of Food and Agriculture (Department) to establish procedures for selecting the conditions that pose or may pose significant threats to the public health, animal health, the environment, and the food supply, which are required to be reported to the Department, and the method of preparation and publication of the List of Reportable Conditions for Animals and Animal Products.

Existing section 796 lists only the animal and poultry "diseases" required to be reported to the Department and their reporting timeframes. Section 796 does not reflect emerging animal and poultry diseases, address food safety concerns, public health or environmental conditions, and does not allow the ability to modify the diseases (conditions) and their timeframes for reporting to the Department.

This proposal adds section 797 to allow the Department the flexibility to add emerging "conditions" and give a higher or lower reporting priority to other conditions as situations occur.

Factual Basis

The Department of Food and Agriculture, Animal Health Branch, is the State's organized, professional veterinary medical unit that protects livestock populations, consumers, and California's economy from catastrophic animal diseases and other health or agricultural problems. The Branch addresses diseases and other problems that cannot be successfully controlled on an individual animal or herd basis, but require statewide coordinated resources.

Food and Agricultural Code section 9101 requires the Department to establish procedures for selecting the conditions that pose or may pose significant threats to the public health, animal health, the environment, and the food supply, which are required to be reported to the Department, and the method of preparation and publication of the List of Reportable Conditions for Animals and Animal Products. Current regulations provide a list of reportable diseases, which reflect only "diseases" of animals and poultry. The List of Reportable Animal and Poultry Diseases does not address food safety, public health or environmental concerns. Because the List of Reportable Animal and Poultry Diseases is in regulation, modifications to the list are subject to the Administrative Procedure Act (APA) rulemaking procedures for each and every amendment made to the list.

Diseases (conditions) and the factors influencing them are dynamic and subject to change without warning. It is important to have the ability to add emerging diseases like Bovine Spongiform Encephalopathy, i.e. Mad Cow Disease, and give a higher or lower priority to other diseases as situations occur with in California, the United States and the world. Having the flexibility to change diseases and their reporting requirements may have the potential to enhance exports and international trade by improving California's credibility with international animal health reporting organizations such as the Office International des Epizooties (OIE) and other trading partners. Additionally, regionalization and other global trading issues in the future may require documentation to demonstrate that California is monitoring for diseases (conditions) that are of interest to our trading partners.

The Department believes that there is a demonstrated need to adopt new section 797 to the regulations as follows:

- *Section 797. List of Reportable Conditions for Animals and Animal Products.*
(a) The State Veterinarian shall determine which conditions shall be listed in the "List of Reportable Conditions for Animals and Animal Products" and the timeframes for reporting those conditions pursuant to section 9101 of the Code.

The term "conditions" refers to any illness, disease, infection, pathogen, contagion, toxin, bacteria, virus, prion, or any other material or factors affecting a population of animals or animal product. Though the conditions may differ, each presents substantial risk to public and animal health, the environment, and the food supply. Any licensed veterinarian, any person operating a diagnostic laboratory, or any person who has been informed, recognizes or should recognize, by virtue of education, experience, or occupation, that any animal or animal product is or may be affected by, has been exposed to, or may be transmitting or carrying any condition specified in the "List of Reportable Conditions for Animals and Animal Products," shall report to the Department all known information required within the time specified.

(b) The State Veterinarian shall list conditions and timeframes that meet the criteria pursuant to section 9562 of the Code, and Title 3, California Code of Regulations, section 1301 et seq., as determined by the State Veterinarian based upon standard epidemiological practice or credible scientific research. The State Veterinarian shall update this list as required by conditions prevailing at the time.

The State Veterinarian shall develop the List of Reportable Conditions for Animals and Animal Products and must meet the criteria found in section 9562. Section 9562 provides the State Veterinarian the authority necessary to protect the health and safety of the citizens of the State by preventing the spread of disease to healthy animals. By imposing quarantine on a population of animals or animal products (California Code of Regulations, section 1301 et seq.), the State Veterinarian can order the owner of the animals or animal product to hold (prohibit any movement from the premises), move, segregate or isolate, treat, or destroy in an effort to prevent the spread of disease. Any quarantine imposed must be based upon current standards of practice or credible scientific research. Although most conditions require a response, either immediately or within a few days, the Department will also monitor for disease (condition) occurrence to further strengthen California's surveillance abilities and to provide information needed for international trade.

(c) The Department of Food and Agriculture shall publish this list by posting it on the Department's Internet web site (www.cdfa.ca.gov) and by making a hard copy list available on request by contacting the California Department of Food and Agriculture, Animal Health Branch, 1220 N Street, Room A-107, Sacramento, CA 95814, telephone (916) 654-1447.

New section 797 makes specific the manner in which the List of Reportable Conditions for Animals and Animal Products shall be updated. The Department will distribute the List of Reportable Conditions for Animals and Animal Products to all licensed and accredited veterinarians and other appropriate agencies and organizations when it is first generated. The Department will make this initial list and subsequent updated versions available in hard copy upon request either in writing or by telephone, and by posting the list on the Department's Internet web site.

(d) The current updated list shall constitute the "List of Reportable Conditions for Animals and Animal Products" pursuant to section 9101 and shall be the basis for actions required of individuals pursuant to section 9101(b). With the adoption of the first of these updates, Title 3, California Code of Regulations, section 796 is repealed.

No timetables or deadlines for reporting conditions to the Department are specified in this proposal. Some conditions, such as Foot and Mouth Disease, are highly transmissible, and have the potential for serious and rapid spread, irrespective of national borders, therefore requiring immediate notification to the Department. For the more routine yet serious conditions, such as cattle scabies, reporting to the Department may be required within a longer period of time, such as, within 2 days. When the Department has confirmation of a serious threat to the public, animal health, the environment or the food supply, it can, within a few hours release an Animal Health Branch Emergency Bulletin, which is mailed to all Accredited veterinarians in the State, post the information on its website, and so forth. Therefore, the State Veterinarian will specify in the "List of Reportable Conditions for Animals and Animal Products" the specific timeframes and deadlines for the reporting of each condition to the Department. Because conditions and their associated reporting requirements are subject to change without warning, new conditions emerge, and old conditions become less prominent, the list cannot be included in the regulation text itself, but incorporated by reference, thus allowing for immediate modifications and distribution to the public and health officials as needed.

Business Impact

This proposed regulation will not have any adverse economic impact on businesses.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Department of Food and Agriculture would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.

